

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

PHILIPS NORTH AMERICA LLC, a  
Delaware Company, and KONINKLIJKE  
PHILIPS N.V., a Company of the  
Netherlands,

Plaintiffs,

vs.

SUMMIT IMAGING INC., a Washington  
Corporation; LAWRENCE R. NGUYEN,  
an individual; and DOES 1-10, inclusive,

Defendants.

NO. 2:19-cv-01745

**COMPLAINT FOR:**

- (1) CIRCUMVENTING A  
TECHNOLOGICAL MEASURE –  
17 U.S.C. § 1201;**
- (2) MODIFYING COPYRIGHT  
MANAGEMENT INFORMATION –  
17 U.S.C. § 1202;**
- (3) TRADE SECRET  
MISAPPROPRIATION AND  
VIOLATIONS OF THE DEFEND  
TRADE SECRETS ACT –  
18 U.S.C. § 1836**
- (4) TRADE SECRET  
MISAPPROPRIATION AND  
VIOLATIONS OF WASHINGTON'S  
UNIFORM TRADE SECRET ACT –  
RCW 19.108, *ET. SEQ***
- (5) FALSE ADVERTISING –  
15 U.S.C. § 1125(a);**
- (6) UNFAIR COMPETITION –  
RCW 19.86.020**

**JURY DEMAND**

1 Plaintiffs Philips North America LLC (“Philips USA”) and Koninklijke Philips N.V.  
2 (“Philips N.V.”) (hereinafter, collectively the “Plaintiff” or “Philips”), allege as follows against  
3 Defendants Summit Imaging Inc. and Mr. Larry R. Nguyen (“Nguyen”), CEO and sole  
4 Governor of Summit, (“Summit” and collectively with Nguyen, “Defendants”):

5 1. Philips is a well-known leader in the business of developing, manufacturing,  
6 selling, supporting, maintaining, and servicing medical imaging systems used at hospitals and  
7 medical centers. Philips’ medical imaging systems include Philips’ proprietary hardware and  
8 software, which include Philips trade secrets, which are necessary to operate, service, and  
9 repair Philips’ systems. Philips’ proprietary software enables certain functions on Philips  
10 medical imaging systems, which can only be modified by Philips, and the software enables  
11 Philips to control, update, and track the use of its ultrasound system software in the  
12 marketplace. Philips’ customers pay for enabled features and additional options. These  
13 features and options enable software functionality and selectively enable interoperability with a  
14 variety of related Philips hardware devices.

15 2. Philips’ high quality products and proprietary software have made Philips a  
16 trusted producer, manufacturer, and supplier of medical imaging systems worldwide, and in the  
17 course of Philips’ business, Philips has garnered substantial goodwill and has advertised and  
18 marketed worldwide the Philips’ goods and services under the Philips trademarks.

19 3. Philips’ access controls protect Philips copyright-protected software as part of  
20 Philips automated system of managing the terms and conditions upon which Philips software  
21 may be accessed.

22 4. In a fraudulent and intentional scheme, Summit illegally and without Philips’  
23 consent hacks into Philips’ proprietary software to modify, tamper with and alter Philips’  
24 ultrasound systems to unlawfully enable software features in order to access options and add-on  
25 features which they are not licensed to use and have not paid for. Summit accomplishes this  
26 illegal scheme by circumventing Philips access controls. Summit engages in such conduct in  
27 order to promote and support its repair parts business and its service contract business.

1           5.           Summit is not authorized to tamper with the proprietary software to enable  
2 features without Philips' permission. Summit's hacking and tampering modifies Philips'  
3 copyright-protected software to create ultrasound systems in configurations Philips has never  
4 sold or supported. These modifications give Summit and its customers unlawful access to  
5 Philips proprietary software, trade secrets, and enables Summit and/or its customers to force  
6 compatibility and interoperability between Philips medical imaging devices and related  
7 hardware devices.

8           6.           Upon information and belief, Summit has created a software program called  
9 Adepto, which is a software tool specifically designed to hack into Philips medical imaging  
10 devices by circumventing Philips' access controls. The Adepto hacking tool allows Summit  
11 and its customers to gain unauthorized access to the proprietary software within Philips medical  
12 imaging systems.

13           7.           In furtherance of its scheme, Summit provides training services to its  
14 customers that include specific instructions about how to circumvent Philips' access controls.

15           8.           Although Summit is surreptitiously using Adepto to hack into Philips'  
16 proprietary software, to circumvent Philips' access controls and to modify Philips proprietary  
17 software without Philips' consent, it falsely markets and advertises to the public that its Adepto  
18 hacking tool is "the legal solution for customers aware of the issues around licensing,  
19 copyright, an intellectual property" and the "only legal alternative to OEM" services.

20           9.           Philips brings this action against Summit to put a stop to Summit's illegal  
21 scheme. In addition to recovering damages caused by Summit's unlawful scheme, Philips seeks  
22 a permanent injunction prohibiting Summit from using Philips' proprietary material; from  
23 misappropriating Philips' intellectual property; from hacking Philips software; and an order  
24 requiring an accounting and return of all Philips' proprietary material unlawfully in Summit's  
25 possession, shared by Summit, or obtained by Summit through Summit's unlawful acts,  
26 including an identification of all persons or entities such information has been obtained from or  
27 shared with.

**THE PARTIES**

10. Plaintiff Philips North America LLC (“Philips USA”) is a Delaware limited liability company, formerly known and doing business as Philips North America Corporation (a Delaware Corporation), with a principal place of business in Andover, Massachusetts. Philips USA’s business includes, among other things, developing, manufacturing, selling, supporting, maintaining, and servicing Philips’ medical imaging systems.

11. Plaintiff Koninklijke Philips N.V. (“Philips NV”) is a public limited liability company organized and existing under the laws of the Netherlands, with a principal place of business at High Tech Campus 5, Eindhoven Netherlands 5656 AE. Philips NV is the sole owner of numerous Philips’ subsidiaries, including Plaintiff Philips North America LLC.

12. Based upon publicly available information obtained from the State of Washington Secretary of State and belief, Defendant Summit Imaging Inc. is a corporation organized and existing under the laws of the State of Washington, with its principle place of business at 15000 Woodinville Redmond Rd. NE Ste. B800, Woodinville, WA, 98072-4502.

13. Based upon information and belief, Defendant Larry K. Nguyen is an individual residing in Woodinville, WA, Snohomish County. Nguyen is a principal owner, Governor, Chief Executive Officer, and Chief Technology Officer of Summit.

14. The true names or capacities, whether individual, corporate, associate, or otherwise, of Does 1-10 inclusive, and each of them are unknown to Philips at this time. Philips therefore sues Does 1-10 by such fictitious names. Philips will amend the Complaint to reflect the true names and capacities of said Does 1-10 when that information has been ascertained. Philips alleges upon information and belief that each of Does 1-10 is an agent, co-conspirator, employee and/or partner of Summit and/or Nguyen, and each was involved in and caused the wrongdoing alleged herein, and is jointly and severally liable for all of the conduct alleged herein.

**JURISDICTION AND VENUE**

15. This action is for circumventing a technological measure that effectively

1 controls access to a protected work arising under the Digital Millennium Copyright Act  
2 (“DMCA”) 17 U.S.C. §§ 1201, 1202 *et seq.*, for trade secret misappropriation under 18 U.S.C.  
3 § 1836, for violations of Washington Trade Secrets Act, RCW 19.108, *et seq.*, and for false  
4 advertising under the Lanham Act, 15 U.S.C. § 1051 *et seq.*, and for unfair methods of  
5 competition and/or unfair or deceptive acts or practices in the conduct of trade or commerce,  
6 RCW 19.86.020.

7 16. This Court has subject matter jurisdiction over this action pursuant to  
8 28 U.S.C. §§ 1331 and 1338(a), 17 U.S.C. § 100 *et. seq.*, and 28 U.S.C. §1369 (supplemental  
9 jurisdiction) and the doctrines of ancillary and pendant jurisdiction.

10 17. This Court has personal jurisdiction over Summit, because Summit has their  
11 principal place of business located in this district, and because Nguyen himself resides within  
12 this district. Moreover, Summit has transacted business in this district and committed  
13 infringement and tortious acts within the State of Washington by offering and advertising  
14 products and/or services knowing that such marketing is false, likely to deceive a large portion  
15 of the relevant public and causes harm to Philips in this district. Upon information and belief,  
16 Summit’s sales representatives target and/or solicit business from Washington residents. Upon  
17 information and belief, Summit’s business in this district includes tampering with Philips’  
18 proprietary software and physically tampering with Philip’s ultrasound systems, disassembling  
19 of Philips’ medical device systems physically and by circumvention of technological measures  
20 that control access to Philips’ protected works and by use of misappropriated trade secrets  
21 belonging to Plaintiff.

22 18. Venue is proper within the Western District of Washington pursuant to  
23 28 U.S.C. § 1391(b)(1) and (2), because Defendants reside in this district and the asserted  
24 claims arise from Defendants’ conduct within this district, including the solicitation of business  
25 and the deceptive promotion of its products and/or services while making unauthorized and  
26 infringing use of Philips’ copyrights and trade secrets.

**BACKGROUND AND FACTS RELATED TO THIS ACTION**

**~Background Related to Philips~**

19. Philips is well-known in the healthcare industry as a trusted provider of electronic medical imaging devices for use in healthcare facilities by healthcare providers.

20. Philips is among the premier medical imaging device companies in the United States and supplies healthcare providers throughout the United States with medical devices. Philips provides a variety of high quality products that include, but are not limited to, imaging devices such as ultrasound systems, computed tomography (CT) scanners, positron emission tomography (PET) scanners, X-ray machines, magnetic resonance (MR) scanners, and nuclear medicine scanners.

21. Philips develops, manufactures, sells, and subsequently supports, maintains, repairs and services these medical imaging systems through proprietary hardware, software, and trade secrets contained within the proprietary software and hardware.

22. In addition to the specific products and services that Philips offers, the Philips name has also become commonly known as the provider of specific branded lines of medical imaging devices, including high-end and premium ultrasound imaging devices under the “CX,” “HD,” “ClearVue,” “Sparq,” “VISIQ,” “Xperius,” “Affiniti,” and EPIQ brand names (collectively, Philips’ “Ultrasound Systems”). In addition to these Ultrasound Systems, Philips manufactures and sells related hardware devices including various models of ultrasound transducers.

23. Philips ultrasound transducers come in a wide variety of forms, each specific to a particular Ultrasound System, to a particular market segment, and to particular clinical segments.

24. In addition to Philips’ Ultrasound Systems, Philips is also commonly known as a provider of specific branded lines of x-ray machines known as the “Integris,” “FD Xpers,” “Selaron,” “Allura,” and “FD Allura” models; of CT and/or PET scanners known as the “Brilliance,” “Ingenuity,” “IQon,” “iCT,” “Big Bore,” and “MX16” models; of a series of



1 tools and features based on a user's registered access authorization level. These controls also  
2 include machine specific access controls which only permit user access to the features and tools  
3 that have been enabled on a specific machine. Philips further protects its trade secrets and  
4 proprietary software with both contractual restrictions and access controls which only allow  
5 individuals access to software and informational material consistent with the authorization level  
6 of their user credentials.

7         30. Each specific Ultrasound System includes certain software and hardware  
8 features that may only be used when a particular licensable feature is enabled for the specific  
9 Ultrasound System. For each Philips' Ultrasound System sold by Philips, only the licensed  
10 features and tools purchased for that specific system are enabled, and only the specific  
11 authorized users of the machine can access the enabled features and software options.

12         31. Philips' optional licensable features control access to Philips' proprietary  
13 software and limit the options available on each specific Ultrasound System. Features and add-  
14 ons that have not been licensed are not accessible on the Ultrasound System or by the  
15 authorized user. Any attempt to use an unlicensed feature on an Ultrasound System will result  
16 in an error message that the feature is not compatible with the system and/or the machine  
17 specific access controls will prevent access to the unlicensed feature. If a specific hardware  
18 add-on requires a software feature be enabled to make use of such hardware, absent the  
19 required software, Philips Ultrasound Systems will report an incompatible device and the  
20 related software will be disabled.

21         32. For example, if a user attaches an ultrasound transducer to a Philips  
22 Ultrasound System, but the related software is not enabled for that Ultrasound System, the  
23 imaging functionality will be disabled and the user will receive an error message informing the  
24 user that the transducer is incompatible with that specific Ultrasound System.

25         33. The systems also contain other software features, including trade secret  
26 features, which can only be accessed by individuals with the necessary authorization levels.  
27 These features include certain onboard service, calibration, and diagnostic features and tools.



1           34.       Philips has spent considerable time and money creating this software and  
2       developing access controls to limit and control access to these features in the manners  
3       described above. Philips controls who holds a license for specific restricted tools and features,  
4       and requires end users to register for authorized access.

5           35.       Unauthorized access to or changes to a Philips Ultrasound Machine or its  
6       software puts Philips' proprietary software and trade secret information at serious risk, and  
7       harms Philips' ability to control access to its proprietary software, and use of its Ultrasound  
8       Systems.

9       **~Summit Is Modifying Philips' Ultrasound Systems as a Regular Course of its Business~**

10          36.       Upon information and belief, by, through, and at the direction of its CEO and  
11       CTO Nguyen, Summit operates its unlawful scheme from its headquarters in Woodinville,  
12       Washington.

13          37.       Summit sells customers service contracts, which include the repair and  
14       service of customers' Philips Ultrasound Systems. Philips has not provided authorized access  
15       credentials to Summit that would enable Summit to access Philips Ultrasound System software  
16       in excess of standard clinical user level access. However, Summit falsely markets and  
17       advertises that it can repair and service Philips' Ultrasound Systems in ways that fall well  
18       outside the bounds of standard clinical user level access.

19          38.       Because Summit is not authorized to access Philips' Ultrasound System  
20       software at a sufficient level to perform the services it markets and sells, Summit uses a  
21       hacking tool called Adepto to illegally access Philips' proprietary software by bypassing  
22       Philips' access controls. Adepto allows Summit to gain unauthorized access to Philips'  
23       copyright-protected software tools and Philips' copyright-protected log files. Upon  
24       information and belief, Summit hacks into Philips' proprietary services in additional ways as  
25       well.

26          39.       Summit's CEO and CTO Nguyen designed and/or developed and/or directed  
27       the development of the Adepto hacking tool personally. Upon information and belief, in order

1 to make use of the Adepto hacking tool Summit and Summit customers physically remove the  
2 hard drive from the Ultrasound System; the removed hard drive is then attached to a separate  
3 computer where the Adepto hacking tool runs; the Adepto hacking tool bypasses Philips  
4 software access controls and accesses the removed hard. Upon information and belief, the  
5 Adepto hacking tool makes and/or installs copies of Philips software that contain enabled  
6 unlicensed options within Philips software. These enabled unlicensed options force  
7 compatibility that would not otherwise be accessible on the removed hard drive and the  
8 Ultrasound System from which it was removed. For example, the Adepto tool enables options  
9 on the removed hard drive in order to access and operate software to enable use of a Philips  
10 transducer that, but for the unauthorized modifications Summit makes using the Adepto tool,  
11 would not be accessible on that specific Ultrasound System.

12 40. Upon information and belief, Summit also makes use of its Adepto hacking  
13 tool and/or other hacking tools in order to enable unlicensed optional Philips software on  
14 Philips' Ultrasound Systems used by Summit in its part repair and parts refurbishing business.

15 41. Summit is not authorized to distribute modified Philips Ultrasound Systems,  
16 and Summit does not and never has held a license to make modifications to Philips Ultrasound  
17 Systems or the software that drives them.

18 42. Summit is not only making unauthorized changes to the Ultrasound Systems,  
19 Summit is knowingly and intentionally selling services that it advertises are legal, but in fact  
20 rely on Summit's unlawful hacking techniques and hacking tools. Upon information and  
21 belief, when a customer purchases services from Summit, Summit provides copies of and  
22 training on the use of its Adepto hacking tool. Summit's services thereafter then rely on  
23 Summit's ability, or Summit's customers' ability, to use the Adepto tool to repeatedly hack into  
24 and circumvent Philips' access controls in order to gain unlicensed access to Philips' copyright-  
25 protected material, including service and diagnostic tool and log files.

26 43. In short, Summit is making a profit at the expense of Philips by offering  
27 consumers the ability to make unlicensed use of Philips software, by hacking Philips software

1 to enable unlicensed features that consumers would otherwise have to purchase separately from  
 2 Philips, and/or with configurations that consumers could never obtain from Philips. Summit  
 3 then sells these services in direct competition with Philips, at a discount, and is therefore  
 4 making these unauthorized changes for commercial gain.

5 ~ **Summit Marketing Falsely Advertises That Their Unlawful Practices are Legal** ~

6 44. Upon information and belief, consumers who purchase Summit's unlawful  
 7 services believe that Summit's services are lawful, because Summit expressly represents that  
 8 they are the "only legal alternative to OEM" and that its hacking tool is a legal solution to  
 9 access OEM systems, like Philips' Ultrasound Systems, that are protected by copyright.

10 45. OEM systems are original equipment manufacturer systems, and providers of  
 11 those systems – like Philips – are OEMs.

12 46. Summit falsely advertises to the public that Summit's hacking is a legal  
 13 solution to the "Current issue in the market" that OEM systems are protected by copyright.



47. Summit's online webinar discussing its Adepto hacking tool confirms that Summit understands that Philips software is protected by copyright. Summit's instructor explains that Summit developed its hacking tool Adepto, because "legal precedent has been set

1 for these passcodes that lock down those service tools with copyright, intellectual and licensing  
 2 issues that surround them.” Thus, Summit’s own training material shows that Summit is aware  
 3 that Philips’ software is protected by both access controls and by copyright law.

4 48. Thus, Summit frames its scheme as addressing the “issue[] in the market” that  
 5 OEM service providers – like Philips – actively protect their copyright-protected tools and  
 6 software with access controls. And Summit’s answer to this “issue[] in the market” is its  
 7 Adepto hacking tool, which circumvents Philips access controls in order to gain unlawful  
 8 access to and make unlawful copies of Philips’ proprietary software.

9 49. In the marketing and training materials Summit uses to advertise their service  
 10 contracts and repair/refurbishment businesses, Summit unabashedly states that Summit created  
 11 Adepto to give customers the tools to service their medical imaging devices, as an “Alternative  
 12 to OEM diagnostics.” Summit further describes this tool as the “legal solution for customers  
 13 aware of issues around licensing, copyright and intellectual property,” explaining that “it’s  
 14 ethical, it removes any liabilities that can be passed on by an independent service provider or  
 15 ... passing on service code liability.”



22 50. Summit informs its customers that the machine owner (*i.e.* the healthcare  
 23 provider) will be primarily liable for the behavior of outsourced service providers.  
 24

Specifically, Nguyen tells its customers that they, as owners of Philips medical imaging systems, will be primarily liable, and that the only legal alternative to relying on an OEM manufacturer is to make use of Summit's Adepto tool.

### Why this matters to healthcare facilities

#### All parties are liable

- Owner of the equipment is assuming unnecessary risk
- Use of illegally obtained passcodes are tracked and traceable to specific dates and times
- Trackable to who serviced the equipment at that time

#### How to know service methods are legal

- Ask for OEM license agreement
- Installation procedures that don't infringe on copyright, IP or licensing



Summit further informs its customers that the tools used by independent service organizations (ISOs) to access diagnostic service tools, necessary to install drivers or flash particular boards, are often passcodes that “infring[e] upon copyright, licensing, and intellectual property” which is “all owned by the OEMs that built the software,” and “the healthcare facility is liable,” because OEM, like Philips, track use of their software through device service menus. Summit explains that healthcare providers, as the equipment owners, will be identified and liable when OEMs detect unlawful use of their software.

Summit, and specifically Summit's CEO personally, then further markets their Adepto hacking tool as a tool that allows Summit to lawfully provide services as an ISO without infringing Philips' (an OEM) copyright.

Summit's marketing, however, is false. Summit's statements that its services and the Adepto tool are legal cannot be squared with their admission that the Philips' software within Philips medical image devices is proprietary and copyright-protected, and that the Adepto hacking tool hacks into Philips' proprietary and copyright-protected software to



1 circumvent access controls and access Philips' copyright-protected files, to physically alter  
2 Philips medical imaging devices, and to modify access controls within Philips devices.

3 54. Specifically, Adepto hacks into Philips Ultrasound Systems by circumventing  
4 Philips' access controls, entirely bypassing Philips' Ultrasound user interface, and thereby  
5 obtains direct access to Philips' copyright-protected software files in a manner that eludes  
6 detection and leaves no traces within Philips system logs.

7 55. Upon information and belief, in order to convince the public that Adepto is  
8 legal, Summit markets Adepto as a tool that accesses only the Windows OS and not the  
9 Ultrasound Systems software installed on the same hard drive. This is false. Adepto operates  
10 directly on a hard drive that Summit physically removes from Philips Ultrasound Systems.

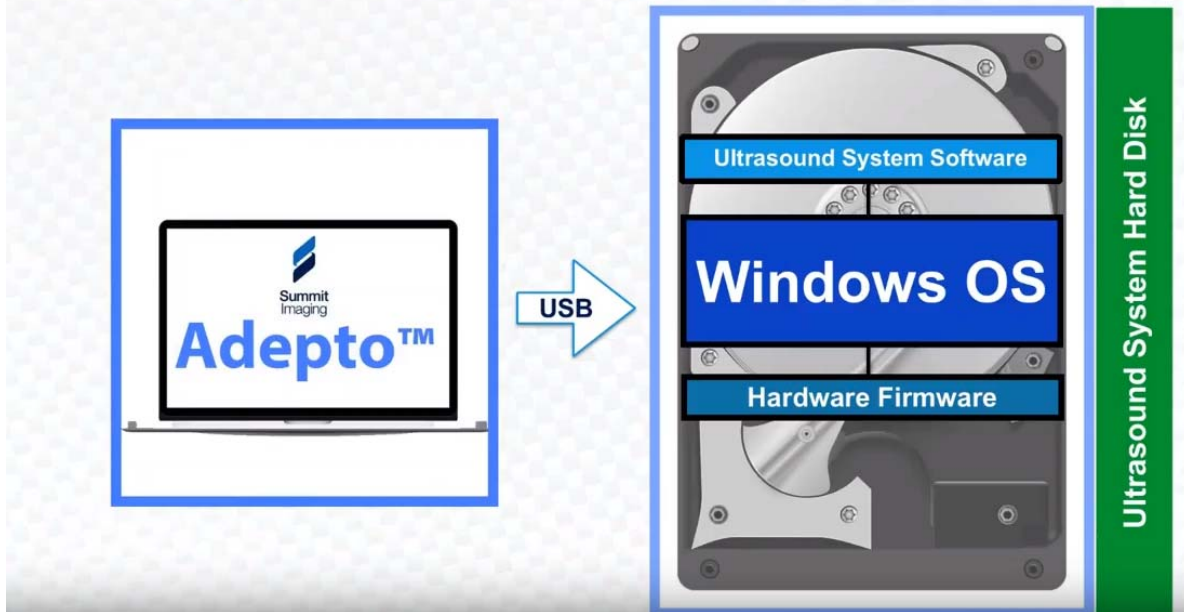
11 56. In Summit's advertising video, CEO Nguyen falsely advertises that Adepto  
12 "works within the Windows OS and this [the Philips Ultrasound System hard drive] is simply a  
13 slaved hard drive", and that Summit is merely a "Windows developer developing software that  
14 runs on the Windows' operating system", and is therefore only operating within the Windows  
15 OS on these hard drives. But, as with any software that executes on a Windows OS, Philips'  
16 copyright-protected files and software containing Philips trade secrets are stored within the  
17 Windows OS file structure. Adepto is configured to unlawfully circumvent Philips access  
18 controls that protect and control access to both the Windows OS within the Philips Ultrasound  
19 System and the Philips Ultrasound Software in order modify Philips' software within that file  
20 structure.

21 //

22 //

23 //

## How Adepto™ Works



57. In Summit’s marketing video, in reference to the figure above, Nguyen explains that copyright, IP, and licensing issues only affect the “light blue box” above (*i.e.* the “Ultrasound System Software”), and Adepto does not touch the light blue box. But this is a distinction without a difference because Philips’ copyright-protected files and the software containing Philips’ trade secrets are stored within the Windows OS file structure. Adepto is specifically configured to modify Philips’ software within that file structure. Furthermore, access to the Windows OS on Philips Ultrasound Systems is also controlled by Philips access controls, which Adepto circumvents in order to gain access to both the Windows OS and Philips software within a Philips Ultrasound System hard drive.

58. Summit’s video goes on to explain what Adepto is used for and how it is used through a demonstration that involves circumventing Philips access controls to gain access to and make copies of Philips’ copyright-protected files.

59. Summit, and specifically Summit’s CEO Nguyen personally, explains that it makes its Adepto hacking tool available free to its customers that return on a repeat basis.

60. Upon information and belief, if an individual requests a copy of Summit and Nguyen’s Adepto hacking tool, such an individual is directed to Nguyen who personally

1 interviews persons who request a copy of the Adepto hacking tool, and upon information and  
2 belief Nguyen personally controls and oversees distribution of the Adepto hacking tool to  
3 Summit's customers.

4 ~ **Summit's Parts Repair and Refurbishment Business Relies on Hacking Philips Access**  
5 **Controls to Gain Access to and Make Use of Philips Proprietary Software** ~

6 61. Upon information and belief, Summit hacks Philips medical imaging devices  
7 in order to enable unlicensed system options within Philips medical imaging devices.

8 62. For example, Summit operates a business selling ultrasound system parts,  
9 including parts for Philips Ultrasound Systems. This business includes a business of repairing  
10 ultrasound transducers. In order to complete a repair, Summit tests a repaired transducer by  
11 using a Philips Ultrasound System to verify the repaired part.

12 63. Philips sells a variety of Ultrasound System transducers, each designed for a  
13 particular purpose, and many require specifically licensed software to work on the Philips  
14 Ultrasound System to which a transducer is attached. Thus, many Philips Ultrasound Systems  
15 are unable to make use of a variety of Philips transducers, because corresponding optional  
16 software is not enabled on the particular Ultrasound System being used. If such software is not  
17 enabled, the system's imaging software will be unavailable and the system will report that the  
18 transducer is incompatible.

19 64. Rather than purchase licenses for the optional software from Philips, Summit  
20 uses the hacking techniques described above, including Adepto, to enable unlicensed optional  
21 software within Philips Ultrasound Systems to test and verify parts repaired or refurbished by  
22 Summit.

23 65. Thus, to conduct its business, which necessarily requires that Summit  
24 illegally enable unlicensed options on an Ultrasound System, Summit circumvents multiple  
25 layers of Philips' access controls.

26 66. Upon information and belief, when Summit cannot test a particular transducer  
27 (because it does not have sufficiently enabled options to do so), Summit hacks through multiple



1 layers of Philips' access controls to modify Philips' software files and to enable unlicensed  
2 options required to test that transducer.

3 67. Upon information and belief, Summit is in possession of Philips internal tools  
4 for enabling options within Philips medical imaging devices, including at least Philips  
5 Ultrasound Systems. Such tools are proprietary to Philips, contain Philips trade secrets, have  
6 never been distributed outside of Philips, and contain highly confidential trade secrets.

7 68. Upon information and belief, Summit circumvents Philips' access controls, to  
8 gain access to Philips' medical imaging system onboard tools for updating, modifying, or  
9 adding Philips software options—tools that only Philips authorized personnel are able to access  
10 using either Philips generated key codes or Philips authorized access control dongles in order to  
11 comply with Philips access controls.

12 69. Thus, in order to enable unlicensed options to support Summit's repair parts  
13 business, Summit hacks Philips access controls to gain access to Philips onboard tools or  
14 software functionality that modifies or enables options, and then Summit employs Philips'  
15 internal trade secret and proprietary software, or other hacking tools, to modify machine  
16 specific configuration files within Philips' systems that enable unlicensed options and allow  
17 unlicensed access to aspects of Philips software. Once a system has been hacked and modified  
18 by Summit, Philips' software corresponding to the respective option is permanently accessible  
19 by Summit, or its customers, and any other user of that machine.

## 20 **FIRST CAUSE OF ACTION**

### 21 **Circumventing a Technological Measure – 17 U.S.C. § 1201**

#### 22 **(All Plaintiffs Against All Defendants)**

23 70. Philips restates and re-alleges all of the allegations of all the paragraphs in  
24 this complaint as though fully set forth herein this First Cause of Action.

25 71. Philips medical imaging systems include Philips' copyrighted and proprietary  
26 software, which also include Philips' trade secrets.

27 72. The clinical software and diagnostic and service tools software in Philips'

1 Ultrasound Systems are protected by copyright under Title 17, and include without limitation  
2 Philips service tools for updating or modifying the licensed options available on a machine, and  
3 for modifying identification numbers associated with a machine.

4 73. The log file output and user displays of Philips Ultrasound Systems are also  
5 respectively protected by copyright under Title 17 as non-literal elements of Philips software  
6 installed on and executing on Philips Ultrasound Systems.

7 74. Philips Ultrasound System licensed optional software is also protected by  
8 copyright under Title 17.

9 75. Philips employs numerous access controls in order to protect and control  
10 access to and restrict use of its copyrighted proprietary software and/or portions thereof.

11 76. Philips' access controls include technological measures to protect and control  
12 access to and limit use of their copyrighted proprietary software and/or portions thereof.

13 77. Summit knowingly and intentionally circumvents Philips' access controls,  
14 using either Summit's Adepto hacking tool, or other unlawful means, or other unlawfully  
15 obtained means, or a combination of the Adepto hacking tool with such other means. Summit  
16 hacks Philips' access controls in order to gain access to Philips' medical imaging system  
17 onboard tools for updating, modifying, or adding Philips software options—tools that only  
18 Philips authorized personnel are able to access using either Philips generated key codes or  
19 Philips authorized access control dongles in order to comply with Philips access controls.

20 78. Summit has hacked and continues to intentionally hack one or more of  
21 Philips' technological measures to knowingly and intentionally circumvent these access  
22 controls to gain unauthorized access to Philips' protected software works, which include  
23 Philips trade secrets, and to enable features of these software works which Philips has not  
24 licensed or authorized Summit, or its customers, to make use of. Through these unlawful  
25 means, Summit unlawfully gains access to unlicensed Philips software and provides  
26 unauthorized access to all subsequent users of Philips' machines hacked by Summit.

27 79. Summit, furthermore, has hacked and continues to knowingly and

1 intentionally hack one or more of Philips' technological measures to circumvent these access  
2 controls to gain unauthorized access to a variety of copyrighted works. Summit does this to  
3 circumvent Philips controls that limit access to Philips' copyright-protected software works in  
4 order to enable optional features of these software works which Philips has not licensed or  
5 authorized Summit, or its customers, to make use of. Philips has the right to employ  
6 technological measures to protect, and control access to, Philips copyright-protected works  
7 within Philips Ultrasound Systems, the operating system within which Philips copyright-  
8 protected works are executed, and the files stored within the operating systems' file structure.

9 80. Upon information and belief, Summit knowingly and intentionally employs  
10 these hacked machines providing unlicensed access to Philips copyright-protected software and  
11 files to Summit's employees in order to provide a parts repair business, and Summit hacks the  
12 Philips machines of Summit's customers in furtherance of both its parts repair business and its  
13 service contract business.

14 81. Summit further provides training to Summit's customers that include  
15 instructions about how to circumvent Philips' access controls with Summit's hacking tools and  
16 techniques.

17 82. Summit's intentional and knowing circumvention of the technological  
18 measures Philips uses to effectively control access to a work or works protected under Title 17,  
19 in violation of 17 U.S.C. § 1201(a)(1) of the Digital Millennium Copyright Act.

20 83. Summit's techniques, including its Adepto hacking tool, are, or at least  
21 include, devices, products, components, or parts thereof that are primarily designed or produced  
22 for the purpose of circumventing Philips' access controls that protect Philips software to  
23 provide Summit and Summit's customers constant access to Philips' proprietary software.  
24 Thus, Summit is in the business of knowingly marketing, manufacturing, offering to the public,  
25 and/or trafficking in a product, device, component, or part thereof, that is primarily designed or  
26 produced for the purpose of circumventing Philips' access controls that protect and control  
27 access to Philips software.

1           84.       Upon information and belief, in order to carry out Summit's unlawful  
2 circumvention of Philips' access controls, Summit makes use of tools which have no use but to  
3 circumvent access controls.

4           85.       Summit has intentionally and/or knowingly manufactured, offered to the  
5 public, or otherwise trafficked in technologies, products, services, devices, components, or  
6 parts thereof, that are primarily designed or produced for the purpose of circumventing  
7 protection afforded by Philips' access controls and/or which have limited commercially  
8 significant purpose other than to circumvent Philips' access controls in violation of the DMCA,  
9 17 U.S.C. § 1201(a)(2). Upon information and belief obtained from publicly available sources,  
10 Nguyen is a principal owner, Governor, Chief Executive Officer (CEO), and Chief Technology  
11 Officer (CTO) of Summit.

12           86.       In his role, Nguyen oversees and has the right and ability to supervise  
13 Summit's actions addressed in this complaint, including Summit's use of the Adepto hacking  
14 tool, and upon information and belief one or more other hacking tools, in order to circumvent  
15 Philips access controls that are technological measures that effectively control access to works  
16 protected under Title 17, including Philips proprietary software and logs on at least Philips  
17 medical imaging systems, including Philips Ultrasound Systems.

18           87.       Nguyen publicly, personally, promotes use of Summit's hacking tools in  
19 Summit's marketing material.

20           88.       Nguyen personally controls and oversees the process of selecting to whom  
21 Summit employees distribute the Adepto hacking tool.

22           89.       Upon information and belief, Nguyen personally advertises its Adepto  
23 hacking tool as available for distribution to Summit's customers, but Summit only distributes  
24 its Adepto hacking tool to contracted customers after such customers have been personally  
25 interviewed by Nguyen himself.

26           90.       Upon information and belief obtained from publicly available sources,  
27 Nguyen designed and created Summit's Adepto hacking tool and participated in or directed its

1 development.

2 91. As a principal owner, Governor, CEO and CTO, Nguyen has, has had, and  
3 continues to have an obvious and direct financial interest in Summit's circumvention  
4 technology.

5 92. Nguyen has, has had, and continues to have the right and ability to supervise  
6 the work of Summit's employees.

7 93. Because Nguyen had the right and ability to supervise the circumvention  
8 actions of Summit, and because Nguyen benefitted financially from Summit's circumvention  
9 actions, Nguyen is vicariously liable for Summit's violations of 17 U.S.C. §§ 1201 and 1202 as  
10 set forth in this Complaint.

11 94. In addition, or in the alternative, as an officer of Summit who personally  
12 participated in the Summit's tortious activities, Nguyen is liable for Summit's torts.

13 95. Specifically, as both the CEO and CTO, Nguyen oversaw and directly  
14 participated in Summit's acts of circumvention of access controls to gain access to copyrighted  
15 material that includes Philips' trade secrets.

16 96. Nguyen was aware of, participated in the use of, created and/or directly  
17 developed, Summit's Adepto hacking tool, and oversees, directs, participates, promotes, and  
18 participates in the use and distribution of Summit's Adepto hacking tool in order to allow  
19 Summit to circumvent Philips' technological measures protecting Philips copyright and thereby  
20 enable unlicensed software within Philips Ultrasound Systems and access and create copies of  
21 Philips copyright-protected log files, and in order to allow Summit's customers to do the same.

22 97. Nguyen has also personally trained Summit's employees and Summit's  
23 customers in how to make use of the Adepto hacking tool in order to disable or otherwise  
24 circumvent Philips access controls and create copies of Philips copyrighted software and log  
25 files.

26 98. Philips has been and will continue to be damaged by the conduct of Summit  
27 and Nguyen conduct in an amount not presently known with certainty, but that will be proven

1 at trial.

2 99. Philips is entitled to the range of relief provided by 17 U.S.C. § 1203,  
3 including but not limited to, injunctive relief, compensatory damages or statutory damages, and  
4 Philips' costs and attorneys' fees in amounts to be proven at trial. Defendants' conduct has also  
5 caused irreparable and incalculable harm and injuries to Philips, and, unless enjoined, will  
6 cause further irreparable and incalculable injury, for which Philips has no adequate remedy at  
7 law.

## 8 **SECOND CAUSE OF ACTION**

### 9 **Modifying Copyright Management Information – 17 U.S.C. § 1202**

#### 10 **(All Plaintiffs Against All Defendants)**

11 100. Philips restates and re-alleges all of the allegations of all the paragraphs in  
12 this complaint as though fully set forth herein this Second Cause of Action.

13 101. Philips proprietary software is protected by copyright laws, and Philips owns  
14 the copyright in its protected software.

15 102. Philips proprietary software includes access controls that are accessed and  
16 read by Philips' automated copyright license management software within Philips Ultrasound  
17 Systems, which is a standard component of Philips' proprietary software included in each  
18 Philips Ultrasound System.

19 103. Philips authorizes specific machines to execute only specific licensed  
20 optional software, and the specific software is only available on that specific machine  
21 consistent with the hardware and software features the customer purchases for that specific  
22 machine.

23 104. When a Philips Ultrasound System boots up, a Philips access control allows  
24 the system to load only the licensed optional software based on machine specific configurations  
25 accessed by Philips access controls. This automated system allows Philips to exclude  
26 unlicensed use of optional software and thus automatically enforces the terms and conditions  
27 under which Philips makes its software available on a Philips Ultrasound System.

1           105.       Philips' machine specific configuration files for controlling access only to  
2 licensed optional software include copyright management information under 17 U.S.C.  
3 1202(c), including the terms and conditions of the use of the software residing thereon in  
4 machine readable configuration files.

5           106.       Summit's business of modifying Philips Ultrasound Systems includes  
6 modifications to such copyright management information and is intended to allow users to  
7 make unauthorized access to unlicensed portions of Philips protected software.

8           107.       Upon information and belief, Summit's customers are unaware that Summit  
9 has modified Philips' copyright management information, because Summit intentionally  
10 conceals this behavior from its customers.

11           108.       Upon information and belief, Summit's servicing of Ultrasound Systems  
12 includes providing or distributing modified machine specific configuration files.

13           109.       Summit's business of modified copyright management information is done  
14 intentionally and for the purpose of distributing falsified copyright management information  
15 knowing that the copyright management information has been altered. And Summit knows,  
16 has reasonable grounds to know, or intends that its behavior facilitates, enables, or induces  
17 Summit's customers to infringe Philips rights under Title 17.

18           110.       Philips has not authorized Summit to modify or provide such falsified  
19 copyright management information, nor has Philips authorized the modification of any  
20 copyright management information or the unlicensed use of Philips' proprietary optional  
21 software.

22           111.       Summit knowingly and with the intent to induce, enable, facilitate, or conceal  
23 infringement by its customers provides, and has provided, falsified copyright management  
24 information and/or distributing falsified copyright management information in violation of 17  
25 U.S.C. § 1202(a).

26           112.       Summit's intentional alteration of Philips' copyright management  
27 information and subsequent distribution of modified configuration files for accessing

1 unlicensed portions of Philips' proprietary software is done with the knowledge that such  
2 behavior induces, enables, facilitates, or conceals infringement of Philips' copyright in its  
3 proprietary software in violation of 17 U.S.C. § 1202(b).

4 113. Upon information and belief obtained from publicly available sources,  
5 Nguyen is a principal owner, Governor, Chief Executive Officer (CEO), and Chief Technology  
6 Officer (CTO) of Summit.

7 114. In his role, Nguyen oversees and has the right and ability to supervise,  
8 Summit's actions addressed in this complaint, including Summit's use of the Adepto hacking  
9 tool, and upon information and belief one or more other hacking tools, in order to circumvent  
10 Philips access controls that are technological measures that effectively control access to works  
11 protected under Title 17, including Philips proprietary software and logs on at least Philips  
12 medical imaging systems, including Philips Ultrasound Systems.

13 115. Nguyen publicly, personally, promotes use of Summit's hacking tools in  
14 Summit's marketing material.

15 116. Nguyen personally controls and oversees the process of selecting to whom  
16 Summit employees distribute the Adepto hacking tool.

17 117. Upon information and belief, Nguyen personally advertises its Adepto  
18 hacking tool as available for distribution to Summit's customers, but Summit only distributes  
19 its Adepto hacking tool to contracted customers after such customers have been personally  
20 interviewed by Nguyen himself.

21 118. Upon information and belief obtained from publicly available sources,  
22 Nguyen designed and created Summit's Adepto hacking tool and participated in or directed its  
23 development.

24 119. As a principal owner, Governor, CEO and CTO, Nguyen has, has had, and  
25 continues to have an obvious and direct financial interest in Summit's circumvention  
26 technology.

27 120. Nguyen has, has had, and continues to have the right and ability to supervise



1 the work of Summit's employees.

2 121. Because Nguyen had the right and ability to supervise the circumvention  
3 actions of Summit, and because Nguyen benefitted financially from Summit's circumvention  
4 actions, Nguyen is vicariously liable for Summit's violations of 17 U.S.C. §§ 1201 and 1202 as  
5 set forth in this Complaint.

6 122. In addition, or in the alternative, as an officer of Summit, Nguyen is liable for  
7 Summit's torts.

8 123. Specifically, as both the CEO and CTO, Nguyen oversaw and directly  
9 participated in Summit's acts of circumvention of access controls to gain access to copyrighted  
10 material that includes Philips' trade secrets.

11 124. Nguyen was aware of, participated in the use of, created and/or directly  
12 developed, Summit's Adepto hacking tool, and oversees, directs, participates, promotes, and  
13 participates in the use and distribution of Summit's Adepto hacking tool in order to allow  
14 Summit to circumvent Philips' technological measures protecting Philips copyright and thereby  
15 enable unlicensed software within Philips Ultrasound Systems and access and create copies of  
16 Philips copyright-protected log files, and in order to allow Summit's customers to do the same.

17 125. Nguyen has also personally trained Summit's employees and Summit's  
18 customers in how to make use of the Adepto hacking tool in order to disable or otherwise  
19 circumvent Philips access controls and create copies of Philips copyrighted software and log  
20 files.

21 126. Philips has been and will continue to be damaged by the conduct of Summit  
22 and Nguyen conduct in an amount not presently known with certainty, but that will be proven  
23 at trial.

24 127. Philips is entitled to the range of relief provided by 17 U.S.C. 1203, including  
25 but not limited to, injunctive relief, compensatory damages or statutory damages, and Philips'  
26 costs and attorneys' fees in amounts to be proven at trial. Summit's conduct has also caused  
27 irreparable and incalculable harm and injuries to Philips, and, unless enjoined, will cause

1 further irreparable and incalculable injury, for which Philips has no adequate remedy at law.

2 **THIRD CAUSE OF ACTION**

3 **Trade Secret Misappropriation – 18 U.S.C. § 1836**

4 **(All Plaintiffs Against All Defendants)**

5 128. Philips restates and re-alleges all of the allegations of all the paragraphs in  
6 this complaint as though fully set forth herein this Third Cause of Action.

7 129. Philips owns and possesses certain confidential, proprietary, and trade secret  
8 information, including scientific, technical, and engineering information and financial,  
9 business, and economic information, as alleged above and below, in Philips' proprietary  
10 software for the Philips Ultrasound Systems.

11 130. Philips' confidential, proprietary, and trade secret information relates to  
12 products used in, or intended for use in, interstate or foreign commerce.

13 131. Philips' proprietary software and access control systems, including onboard  
14 software, contain and are trade secrets because Philips restricts access to them and Philips has  
15 engaged in reasonable measures to maintain their secrecy. Such reasonable measures to protect  
16 its trade secrets include, for example, implementing systems of access registration, access  
17 credential management, access control measures, machine specific access control files, and  
18 other safeguards associated with Philips' proprietary software, including in the form of physical  
19 and/or technological safeguards and also including in the form of contractual protections and  
20 written notices and warnings.

21 132. Philips has expended significant money and effort in developing Philips'  
22 proprietary software, the trade secrets embodied therein, and the access control systems that  
23 protect such software and trade secrets, and that software and the information therein would be  
24 difficult to properly acquire or duplicate by Summit or other competitors of Philips.

25 133. Philips' proprietary software and access control systems derive independent  
26 economic value to Philips by not being generally known, and not being readily ascertainable  
27 through proper means, by another person who could obtain economic value from the disclosure

1 or use of the information. Moreover, they are of significant commercial value to Philips,  
2 because among other things, Philips relies upon these trade secrets to achieve an advantage in  
3 the marketplace with respect to the quality, range, and efficiency of the repair and maintenance  
4 services that it is able to offer by virtue of the pricing related thereto.

5 134. Upon information and belief, Summit has obtained Philips internal trade  
6 secret software tools for enabling optional software on Philips Ultrasound systems; these tools  
7 are restricted within Philips even as to Philips own engineers and developers, and have never  
8 been distributed outside of Philips.

9 135. Upon information and belief, Summit possesses and is making use of Philips'  
10 trade secret tools for managing its access controls and Summit obtained these tools for enabling  
11 software options by improper means, or from someone having an obligation to maintain the  
12 secrecy of these tools in violation of the obligation.

13 136. Philips optionally enabled software which implements and enables licensable  
14 features and tools comprises Philips trade secrets, which Philips only authorizes execution of  
15 within specific licensed machines. These trade secrets reside on Philips Ultrasound Systems in  
16 compiled machine readable encoding, in a form which protects the nature and character and  
17 specific details of Philips trade secrets. These trade secrets are only accessible by a machine  
18 having an appropriate licensed option enabled by Philips' access controls. During execution a  
19 user or observer is unable to observe the nature, character, or details of the trade secrets  
20 embodied in the software that enables the machines functionality.

21 137. Summit unlawfully accesses and enables access to Philips' trade secrets for  
22 the purpose of furthering its parts repair business or its repair and maintenance service business  
23 in all cases for a profit.

24 138. Summit has misappropriated some or all of these trade secrets for its own  
25 unlawful use and/or benefit without express or implied consent by Philips. At the time of its  
26 use of such trade secrets, Summit knew or had reason to know that its knowledge of the trade  
27 secrets was acquired either under circumstances giving rise to a duty to maintain the secrecy of

1 the trade secrets or limit their use, or from or through a person who owed a duty to Philips to  
2 maintain the secrecy of the trade secret or limit the use of the trade secret, or by improper  
3 means.

4 139. Summit's actions have been knowing, deliberate, willful, reckless, and in  
5 utter disregard of Philips' rights.

6 140. As a result of Summit's misappropriation of these trade secrets, Philips has  
7 suffered actual damages in an amount to be proven at trial. At a minimum, Summit has gained  
8 an improper competitive advantage over Philips that caused or may cause Philips to be  
9 underbid or to otherwise lose out on business that it would have otherwise obtained.

10 141. Summit's ongoing and continuing use of the trade secrets and proprietary and  
11 confidential information of Philips has caused, and will cause, Philips repeated and irreparable  
12 injury. Philips' remedy at law is not, by itself, adequate to compensate for the injuries already  
13 inflicted and further threatened by Summit.

14 142. Upon information and belief, Nguyen personally oversees and approves the  
15 use of Philips trade secrets. Specifically, Nguyen designed and created Summit's Adepto tool  
16 for the purpose of circumventing access controls, and Nguyen has instructed his company,  
17 Summit, to make use of Summit's Adepto hacking tool in connection with Philips trade secrets  
18 in order to modify Philips systems' access controls to enable Philips' licensable features. Thus,  
19 under Nguyen's direction Summit and Summit's customers thereby gain access and making use  
20 of Philips trade secrets via improper means of hacking Philips' access controls. And Nguyen is  
21 personally involved in making false statements in Summit's marketing of the Adepto hacking  
22 tool as a tool for misappropriating Philips trade secrets.

23 143. Thus, Nguyen is personally and individually liable for the activities of  
24 Summit and Summit's employees which he personally formulates, ratifies, directs, controls,  
25 and participates in.

26 144. Philips has been damaged by all of the foregoing and is entitled to an award  
27 of exemplary damages and attorneys' fees.

1           145. By engaging in the conduct set forth in the preceding paragraphs of this  
2 Complaint, Summit has violated the Defend Trade Secrets Act (DTSA), 18 U.S.C. § 1836.

3                           **FOURTH CAUSE OF ACTION**

4                           **Trade Secret Misappropriation – RCW 19.108, et. seq.**

5                           **(All Plaintiffs Against All Defendants)**

6           146. Philips restates and re-alleges all of the allegations of all the paragraphs in  
7 this complaint as though fully set forth herein this Fourth Cause of Action.

8           147. Philips owns and possesses certain confidential, proprietary, and trade secret  
9 information, including scientific, technical, and engineering information and financial,  
10 business, and economic information, as alleged above and below, in Philips' proprietary  
11 software for the Philips Ultrasound Systems.

12           148. Philips' confidential, proprietary, and trade secret information relates to  
13 products used in, or intended for use, in interstate or foreign commerce.

14           149. Philips' proprietary software and access control systems, including its  
15 diagnostic and service software, contain and are trade secrets because Philips restricts access to  
16 them and Philips has engaged in reasonable measures to maintain their secrecy. Such  
17 reasonable measures to protect its trade secrets include, for example, implementing systems of  
18 access registration, access credential management, access control measures, temporal  
19 limitations on distributed electronic material and access credentials, and other safeguards  
20 associated with Philips' proprietary software, including in the form of physical and/or  
21 technological safeguards and also including in the form of contractual protections and written  
22 notices and warnings.

23           150. Philips has expended significant money and effort in developing Philips'  
24 proprietary software, the trade secrets embodied therein, and the access control systems that  
25 protect such software and trade secrets, and that software and the information therein would be  
26 difficult to properly acquire or duplicate by Summit or other competitors of Philips.

27           151. Philips' proprietary software and access control systems derive independent

1 economic value to Philips by not being generally known, and not being readily ascertainable  
2 through proper means, by another person who could obtain economic value from the disclosure  
3 or use of the information. Moreover, they are of significant commercial value to Philips,  
4 because among other things, Philips relies upon these trade secrets to achieve an advantage in  
5 the marketplace with respect to the quality, range, and efficiency of the repair and maintenance  
6 services that it is able to offer by virtue of the pricing related thereto.

7 152. Upon information and belief, Summit has obtained Philips internal trade  
8 secret software tools for enabling optional software on Philips Ultrasound systems; these tools  
9 are restricted within Philips even as to Philips own engineers and developers, and have never  
10 been distributed outside of Philips.

11 153. Upon information and belief, Summit possesses and is making use of Philips'  
12 trade secret tools for managing its access controls and Summit obtained these tools for enabling  
13 software options by improper means, or from someone having an obligation to maintain the  
14 secrecy of these tools in violation of the obligation.

15 154. Philips optionally enabled software which implements and enables licensable  
16 features and tools comprises Philips trade secrets, which Philips only authorizes execution of  
17 within specific licensed machines. These trade secrets reside on Philips Ultrasound Systems in  
18 compiled machine readable encoding, in a form which protects the nature and character and  
19 specific details of Philips trade secrets. These trade secrets are only accessible by a machine  
20 having an appropriate licensed option enabled by Philips' access controls. During execution a  
21 user or observer is unable to observe the nature, character, or details of the trade secrets  
22 embodied in the software that enables the machines functionality.

23 155. Summit unlawfully accesses and enables access to Philips' trade secrets for  
24 the purpose of furthering its parts repair business or its repair and maintenance service business  
25 in all cases for a profit.

26 156. Summit has misappropriated some or all of these trade secrets for its own  
27 unlawful use and/or benefit without express or implied consent by Philips. At the time of its

1 use of such trade secrets, Summit knew or had reason to know that its knowledge of the trade  
2 secrets was acquired either under circumstances giving rise to a duty to maintain the secrecy of  
3 the trade secrets or limit their use, or from or through a person who owed a duty to Philips to  
4 maintain the secrecy of the trade secret or limit the use of the trade secret, or by improper  
5 means.

6 157. Summit's actions have been knowing, deliberate, willful, reckless, and in  
7 utter disregard of Philips' rights. Summit's misappropriation of Philips' trade secrets by  
8 hacking into Philips' restricted systems and Philips' medical imaging systems demonstrates  
9 Summit's behavior is willful and rises to the level of maliciousness appropriate for exemplary  
10 and punitive damages.

11 158. As a result of Summit's misappropriation of these trade secrets, Philips has  
12 suffered actual damages in an amount to be proven at trial. At a minimum, Summit has gained  
13 an improper competitive advantage over Philips that caused or may cause Philips to be  
14 underbid or to otherwise lose out on business that it would have otherwise obtained.

15 159. Summit's ongoing and continuing use of the trade secrets and proprietary and  
16 confidential information of Philips has caused, and will cause, Philips repeated and irreparable  
17 injury. Philips' remedy at law is not, by itself, adequate to compensate for the injuries already  
18 inflicted and further threatened by Summit.

19 160. Upon information and belief, Nguyen personally oversees and approves the  
20 use of Philips trade secrets. Specifically, Nguyen designed and created Summit's Adepto tool  
21 for the purpose of circumventing access controls, and Nguyen has instructed his company,  
22 Summit, to make use of Summit's Adepto hacking tool in connection with Philips trade secrets  
23 in order to modify Philips systems' access controls to enable Philips' licensable features. Thus,  
24 under Nguyen's direction Summit and Summit's customers thereby gain access and making use  
25 of Philips trade secrets via improper means of hacking Philips' access controls. And Nguyen is  
26 personally involved in making false statements in Summit's marketing of the Adepto hacking  
27 tool as a tool for misappropriating Philips trade secrets.

1           161.       Thus, Nguyen is personally and individually liable for the activities of  
2 Summit and Summit's employees which he personally formulates, ratifies, directs, controls,  
3 and participates in.

4           162.       Philips has been damaged by all of the foregoing and Summit's and Nguyen's  
5 willful and wanton conduct demonstrate that Philips is entitled to an award of exemplary  
6 damages and attorneys' fees.

7           163.       By engaging in the conduct set forth in the preceding paragraphs of this  
8 Complaint, Summit has unlawfully misappropriated Philips' trade secrets and violated  
9 Washington's Uniform Trade Secret Act, RCW 19.108, *et. seq.*

#### 10                               **FIFTH CAUSE OF ACTION**

#### 11                               **False Advertising – 15 U.S.C. § 1125(a)**

#### 12                               **(All Plaintiffs Against All Defendants)**

13           164.       Philips restates and re-alleges all of the allegations of all the paragraphs in  
14 this complaint as though fully set forth herein this Fifth Cause of Action.

15           165.       As set forth above, Summit makes false and misleading statements regarding  
16 the quality and nature of Summit's business and services. Specifically, Summit advertises that  
17 its services, relying upon its Adepto hacking tool, are a legal alternative Philips OEM services  
18 that address the market issue that Philips protects its proprietary software and trade secrets with  
19 access controls. Summit warns healthcare providers that other independent service  
20 organization rely on falsely generated keys or codes to perform services by infringing OEM  
21 rights in OEM service tools. Summit further markets that it is able to modify Philips Ultrasound  
22 System software without accessing or touching Philips Ultrasound Software, and that Summit's  
23 Adepto hacking tool only accesses Windows portions of a Philips Ultrasound Software system.  
24 Summit explains that this method of circumventing Philips access controls is legal, and avoids  
25 liability to healthcare providers arising from unlawful services.

26           166.       Summit's marketing is false and misleading, because it is untrue; Summit's  
27 techniques are unlawful as described throughout this complaint. Specifically, Summit's



1 techniques violate the DMCA's prohibition on circumventing access controls that effectively  
2 control access to a protected work, because Philips access controls effectively control access to  
3 Philips proprietary optional software, to access to Philips software for enabling Philips optional  
4 software, and access to Microsoft's Windows operating systems within Philips' Ultrasound  
5 Systems.

6 167. Defendants' false and misleading representations of fact in its commercial  
7 advertising misrepresent the nature, characteristics, qualities, and origin of Summit's services,  
8 and falsely represent that Summit's services are a legal mechanism for circumventing Philips  
9 access controls within its medical imaging devices, including Ultrasound Systems.

10 168. Such conduct by Summit constitutes false advertising in violation of Section  
11 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

12 169. Defendants' knowledge that their Adepto hacking tool and reliance on Philips  
13 tools for enabling Philips software options all work to circumvent access controls meant to  
14 protect Philips copyright-protected works and Philips trade secrets evidences an intent to cause  
15 consumer confusion and to defraud the public, and renders this case exceptional under 15  
16 U.S.C. § 1117.

17 170. Upon information and belief, Nguyen personally oversees and approves the  
18 use of Summit's false advertising. Specifically, Nguyen has been personally involved in  
19 making false statements on behalf of Summit in Summit's marketing of the Adepto hacking  
20 tool to Summit's customers as the only legal alternative to relying on Philips, as OEM, for  
21 support of Summit's customers' systems.

22 171. Thus, Nguyen is personally and individually liable for the false advertising  
23 activities of Summit and Summit's employees which he personally formulates, ratifies, directs,  
24 controls, and participates in.

25 172. As a direct and proximate result of Defendants' false advertising in violation  
26 of under 15 U.S.C. § 1125(a), Plaintiffs have suffered, and will continue to suffer, substantial  
27 damage and irreparable harm constituting injury for which they have no adequate remedy at

1 law. Unless restrained and enjoined by this Court, the wrongful acts of Summit will continue  
 2 to cause serious irreparable injury and damage to Philips.

3 **SIXTH CAUSE OF ACTION**

4 **Unfair Competition in Violation of Washington's**  
 5 **Consumer Protection Act - RCW 19.86.020, et seq.**

6 **(All Plaintiffs Against All Defendants)**

7 173. Philips restates and re-alleges all of the allegations of all the paragraphs in  
 8 this complaint as though fully set forth herein this Sixth Cause of Action.

9 174. As set forth above, Summit makes false and misleading statements regarding  
 10 the quality and nature of Summit's business and services. Specifically, Summit advertises that  
 11 its services, relying upon its Adepto hacking tool, are a legal alternative Philips OEM services  
 12 that address the market issue that Philips protects its proprietary software and trade secrets with  
 13 access controls. Summit warns healthcare providers that other independent service  
 14 organization rely on falsely generated keys or codes to perform services by infringing OEM  
 15 rights in OEM service tools. Summit further markets that it is able to modify Philips Ultrasound  
 16 System software without accessing or touching Philips Ultrasound Software, and that Summit's  
 17 Adepto hacking tool only accesses Windows portions of a Philips Ultrasound Software system.  
 18 Summit explains that this method of circumventing Philips access controls is legal, and avoids  
 19 liability to healthcare providers arising from unlawful services.

20 175. Summit's marketing is false and misleading, because it is untrue; Summit's  
 21 techniques are unlawful as described throughout this complaint. Specifically, Summit's  
 22 techniques violate at least the DMCA's prohibition on circumventing access controls that  
 23 effectively control access to a protected work, because Philips access controls effectively  
 24 control access to Philips proprietary optional software, to access to Philips software for  
 25 enabling Philips optional software, and access to Microsoft's Windows operating systems  
 26 within Philips' Ultrasound Systems.

27 176. Defendants' false and misleading representations of fact in its commercial

1 advertising misrepresent the nature, characteristics, qualities, and origin of Summit's services,  
2 and falsely represent that Summit's services are a legal mechanism for circumventing Philips  
3 access controls within its medical imaging devices, including Ultrasound Systems.

4 177. Such conduct by Summit is an unfair method of trade in violation of  
5 Washington's Consumer Protection Act, RCW 19.86.020.

6 178. Defendants' knowledge that their Adepto hacking tool and reliance on Philips  
7 tools for enabling Philips software options all work to circumvent access controls meant to  
8 protect Philips copyright-protected works and Philips trade secrets evidences an intent to cause  
9 consumer confusion and to defraud the public, and therefore justify imposition by this Court an  
10 award including treble damages and reasonable attorney's fees as provided by RCW 19.86.090.

11 179. Upon information and belief, Nguyen personally oversees and approves the  
12 use of Summit's false advertising. Specifically, Nguyen has been personally involved in  
13 making false statements on behalf of Summit in Summit's marketing of the Adepto hacking  
14 tool to Summit's customers as the only legal alternative to relying on Philips, as OEM, for  
15 support of Summit's customers' systems.

16 180. Thus, Nguyen is personally and individually liable for the false advertising  
17 activities of Summit and Summit's employees which he personally formulates, ratifies, directs,  
18 controls, and participates in.

19 181. As a direct and proximate result of Defendants' unfair methods of  
20 competition and deceptive acts, Plaintiffs have suffered, and will continue to suffer, substantial  
21 damage and irreparable harm constituting injury for which they have no adequate remedy at  
22 law. Unless restrained and enjoined by this Court, the wrongful acts of Summit will continue  
23 to cause serious irreparable injury and damage to Philips.

24 **JURY DEMAND**

25 Pursuant to Fed.R.Civ. P. 38 and LCR 38, Plaintiffs hereby demand a trial by jury for  
26 all issues so triable.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs request that this Court enter judgment in their favor and against Defendant as follows:

1. Judgment be entered that

- a. Defendants have committed acts of unfair competition including false designation or origin and false advertising in violation of 15 U.S.C. § 1125(a);
- b. Defendants have committed actions of circumventing a technological measure that effectively controls access to Philips' works protected under Title 17 in violation of the DMCA, 17 U.S.C. § 1201(a)(1);
- c. Defendants have committed actions of trafficking in a technology, device, product, service, component, or part thereof in violation of the DMCA, 17 U.S.C. § 1201(a)(2);
- d. Defendants have falsified and provided or distributed falsified copyright management information in violation of the DMCA, 17 U.S.C. § 1202;
- e. Defendants have committed acts of trade secret misappropriation in violation of the DTSA, 18 U.S.C. § 1836;
- f. Defendants have violated the Washington Uniform Trade Secret Act in violation of RCW 19.108, *et. seq.*;
- g. Defendants have engaged in unlawful, unfair and deceptive business practices in violation of Washington's Consumer Protection Act, RCW 19.86.020, *et. seq.*;

2. Judgment be entered permanently enjoining Defendants and each of their officers, members, employees, owners managers, agents, attorneys, successors, servants, subsidiaries, related entities, licensees, and assigns, and all persons acting in concert with any of the foregoing, from:

- a. selling, offering for sale, advertising, or promoting any goods or services

- 1 in violation of the Lanham Act § 1125 or RCW 19.86.020;
- 2 b. circumventing any Philips access control;
- 3 c. using, possessing, or distributing any Philips proprietary material or
- 4 trade secrets; and
- 5 d. modifying any Philips copyright management information.
- 6 3. Order an accounting of all Philips trade secrets or proprietary material in
- 7 Defendants' possession and that all such trade secret or proprietary material be returned to
- 8 Philips;
- 9 4. Defendants be held liable and ordered to account for and pay to Plaintiffs,
- 10 a. treble actual damages or Defendants' profits pursuant to 15 U.S.C. §
- 11 1117(a) based on Defendants' willful false and misleading advertising;
- 12 b. all gains, benefits, and advantages derived from Defendants' wrongful
- 13 use, misappropriation, and infringement of Plaintiffs' trade secrets;
- 14 c. all losses and damages, including lost profits and costs for corrective
- 15 advertising, suffered by the Philips as a result of Defendants' unfair
- 16 competitive practices;
- 17 d. award monetary damages to Philips, including but not limited to
- 18 compensatory damages and statutory, enhanced, treble and punitive
- 19 damages, to the extent recoverable by any applicable law;
- 20 e. Philips' reasonable attorneys' fees and costs pursuant to 15 U.S.C. §
- 21 1117(a), RCW 19.86.090, RCW 19.108.040;
- 22 f. treble damages pursuant to RCW 19.86.090;
- 23 g. exemplary damages pursuant to RCW 19.108.030;
- 24 h. exemplary and punitive damages for Defendants' willful, wanton and
- 25 reckless conduct; and
- 26 i. Judgment granting Plaintiffs damages and such other relief as this Court
- 27 deems just and proper.

DATED: October 29, 2019.

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